

Nevertheless, on the CBS webpage, the algorithm currently states otherwise. On that page, scoring for sacks is now listed based on a “range,” where a single half sacked added no point value. All parties agree that they did not intend to change the scoring system.

In week two of the 2008 season, the league commissioner and one of the co-commissioners first noticed that their sacks algorithm had changed from the previous season, and under the new, erroneous algorithm, half sacks were not scoring any points. Yet, neither party acted on this finding.

During the fifth week of the season, Mr. Lesser then realized for the first time that CBS Sportsline was not calculating half sacks. Mr. Lesser learned this when he watched one of his players on television record a half sack but found no change the score of his fantasy game. Mr. Lesser ended up tying that game.

Mr. Lesser believes he would have won if the algorithm had credited him 2.5 points for the half sack (of course, however, players on the other team may have also been denied points for half sacks). He thereafter contacted CBS Sportsline about the problem, which informed him that the league was set to “range” rather than “fixed” scoring. According to the CBS Sportsline employee, this problem was correctable, and game scores could be rerun.

Upon sharing this news with the league commissioner, the commissioner then called for a league vote on whether to rerun the league games, awarding points for player sacks. According to the commissioner, the league voted against a recalculation; however, there is some disagreement amongst the parties on that point. Nevertheless, the commissioner decided to let the “range” algorithm stay in place, and opted not to rerun the scores of any past games.

ANALYSIS

I. Determining the League’s Intended Rules

The first issue for the court to consider is the league’s intended scoring system for sacks. The starting point (and ending point) for this review is generally the language in the league constitution, which sets forth the terms of agreement amongst the teams in the league. Here, however, the team owners do not have a formal constitution. This requires the court instead to delve into the rights and expectations of the owners based upon a hodgepodge of written documents, past usage, and default rules. Such an approach is less than ideal.

In this case, the two best written documents that seem to indicate the league’s 2008 scoring system are in conflict with one another. The commissioner’s preseason email implies that the league scoring would continue to award 5 points per sack and 2.5 points per half-sack. Meanwhile, the Rules page on the CBS Sports website discloses a range-based scoring system that does not award any points for a half sack. As an objective outsider, there is no reason to give more weight to one of these documents over the other, unless, of course, the league added a new owner this season who did not know of the old scoring system, making him

unable to deduce anything from the commissioner's email about all other categories remaining unchanged. (*Outcome: push, unless new owner was unaware of old system*).

Usage, meanwhile, strongly supports enforcing the system of awarding 5 points per sack and 2.5 points per half sack. Because this has been the league's scoring system that has been in place for the past two years, any intended changes to the scoring system needed to be *inexplicably clear*. Moreover, if it were a keeper league, the commissioner may not even have the power to unilaterally change the scoring system—indicating that, irrespective of intent, the old system should remain in place. *See, e.g., Balco Orange Juice v. Commissioner & The Jefferson League*, Public Opinion No. 173 (Oct. 2, 2005) (finding it inappropriate to conduct a league vote on whether to decrease the number of keepers in a league because doing so violates team property rights). While as a general matter there is an obligation placed on all owners in the league to review all sources of league rules before the annual draft, past usage coupled with the commissioner's preseason email overrides any reasonable expectation that Mr. Lesser would have revisited the CBS Sportsline rule's page and noticed the scoring change. (*Outcome: strongly favors counting half sacks, as long as the league has no new owners*).

Finally, SportsJudge.com's default rules have regularly taken the position that a data hosting site is nothing more than a technological assistant on behalf of the commissioner. *See, e.g., Dr. Rhim v. Westminster Football League*, Index No. 735 (Sept. 4, 2007) (the Court of Fantasy Football ruled that where a Yahoo! search engine unexpectedly crashed in the middle of a draft, the league commissioner must re-input the names of the players selected prior to the crash, and that the commissioner may not require an absolute re-draft). When viewed in this light, to the extent there was miscommunication between the league and employees of CBS Sportsline, that miscommunication should have no bearing on the league's ultimate scoring system. The fact that CBS Sportsline changed the league's scoring system unilaterally is all the more reason to roll back the scores and apply the intended algorithm, which includes half sacks. (*Outcome: strongly favors counting half sacks*).

For all of the foregoing reasons, unless there is any evidence that a new (read: first-year) owner in the league relied to his detriment upon the scoring system as written on the CBS Sportsline Rules page, the court orders league commissioner to rerun the league standings, awarding points for half-sacks, as well as full sacks.

II. The League Vote

As a final issue worth noting, this court further voids entirety the league vote conducted by the commissioner on this issue. The vote is voided for three reasons: (1) absent a league constitution, the commissioner does not have the explicit power to call for a vote; (2) even if the commissioner had the power to call for a vote, this is not the type of issue where a vote is appropriate; and (3) even if a vote were appropriate here, the voting procedure applied was questionable at best.

Indeed, even though the idea of a democratic league sounds great in theory, allowing a league to vote on certain issues is never appropriate. *See, e.g., Balco Orange Juice v. Commissioner & The Jefferson League*, Public Opinion No. 173 (Oct. 2, 2005) (finding it inappropriate to conduct a league vote on whether to decrease the number of keepers in a league because doing so violates team property rights); *Hermann's Head v. Commissioner of the Yale Football League*, Public Opinion No. 257 (September 1, 2006) (implying that it would be inappropriate to hold a league vote to increase roster sizes after a league draft is held).

In this particular scenario, the problem with a league vote is that certain team owners have a monetary interest in voting against correcting a past scoring error. Given that Mr. Lesser already drafted his team with the expectation of earning points for half sacks (and this may have affected his draft day weighting of defensive players), it would be unfair to allow the personal interests of respective club owners to deprive Mr. Lesser of his reasonable expectations of the scoring system at the time when he drafted his team. Indeed, voting on this issue midseason is substantially less fair to Mr. Lesser than it would have been if this same vote were to have occurred in the off-season when personal incentives would have been far lower.

CONCLUSION

For the foregoing reasons, this court issues a preliminary order requiring the league commissioner to rerun the league standings in a manner that awards points for half-sacks. The results of the league vote shall be voided. Additionally, the commissioner shall receive a 48-hour window upon receipt of this opinion to submit additional evidence regarding the specific issue of impact of this decision on any first-year owner in the league.